

Order

Michigan Supreme Court
Lansing, Michigan

July 31, 2009

Marilyn Kelly,
Chief Justice

138417-8

Michael F. Cavanagh
Elizabeth A. Weaver
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway,
Justices

DORIS PERNELL,
Plaintiff-Appellee,

v

SC: 138417-8
COA: 279825; 279837
Wayne CC: 05-519094-NF

ALLSTATE INSURANCE COMPANY,
Defendant-Appellant,

and

QBE INSURANCE CORPORATION and
IPA INSURANCE PROGRAM
ADMINISTRATORS, L.L.C.,
Defendants.

On order of the Court, the application for leave to appeal the December 2, 2008 judgment of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.

MARKMAN, J. (*dissenting*).

I would grant leave to appeal to consider whether the Court of Appeals properly extended *Darnell v Auto-Owners Ins Co*, 142 Mich App 1 (1985), to hold defendant liable for plaintiff's personal protection insurance benefits after defendant began paying those benefits, but then ceased after determining that another insurer had priority. Because *Darnell, supra* at 12, considered a priority dispute in the context of determining liability for *attorney fees* pursuant to MCL 500.3148, I question its relevance in determining liability for actual *benefits*.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

July 31, 2009

Corbin R. Davis

Clerk